

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 227 - SB 399

December 28, 2015

SUMMARY OF BILL: For any conduct committed on or after July 1, 2015, requires juveniles to be transferred to the sheriff of the county and tried as an adult if (1) the juvenile is being alleged delinquent based on conduct that if committed by an adult would constitute first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, especially aggravated kidnapping, or one of the offenses listed under Tenn. Code Ann. § 40-35-121 (criminal gang offense); and (2) the juvenile has one or more prior adjudications of delinquency for conduct that if committed by an adult would constitute first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, especially aggravated kidnapping, or one of the offenses listed under Tenn. Code Ann. § 40-35-121.

Excludes sexual offenses if the child engaging in the conduct and the victim are both juveniles, and the difference in age between the child and the victim is less than two years.

Clarifies that the law applies even if the conduct resulting in the prior finding of delinquency occurred before July 1, 2015.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$659,600/Incarceration*

Assumptions:

- Under current law, any child between 16 and 18 years of age can be tried as an adult for any criminal offense if a juvenile court waives its jurisdiction under Tenn. Code Ann. § 37-1-134. Children under 16 years of age, however, can only be tried as an adult for certain offenses—first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, and especially aggravated kidnapping—or attempts of those offenses, but only if the victim was less than eight years of age.
- The bill expands the list of offenses for which a juvenile may be tried as an adult and requires a juvenile to be tried as an adult, rather than giving the judge discretion, if:
 - The juvenile is being alleged delinquent based on conduct that if committed by an adult would constitute first degree murder, second degree murder, rape,

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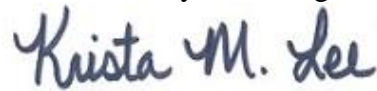
aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, especially aggravated kidnapping, or one of the offenses listed under Tenn. Code Ann. § 40-35-121 (criminal gang offense); and

- the juvenile has one or more prior adjudications of delinquency for conduct that if committed by an adult would constitute first degree murder, second degree murder, rape, aggravated rape, rape of a child, aggravated rape of a child, aggravated robbery, especially aggravated robbery, kidnapping, aggravated kidnapping, especially aggravated kidnapping, or one of the offenses listed under Tenn. Code Ann. § 40-35-121.
- The offenses listed in Tenn. Code Ann. § 40-35-121 include, but are not limited to, assault, aggravated assault, carjacking, robbery, aggravated robbery, aggravated burglary, riot, inciting a riot, sale of controlled substances, and possession of a controlled substance with the intent to sell.
- The bill will increase state incarceration costs because more juveniles will be tried as adults and serve time in Department of Correction (DOC) custody after they reach the age of majority.
- Davidson County reports that the bill would have affected 32 juveniles from 2010 to 2014, or 6.4 per year. It is assumed that the bill will affect 30 juveniles across the state each year.
- The bill will result in 30 juveniles being transferred and tried as an adult each year. It is assumed that these 30 juveniles will be 14 years of age at conviction.
- Under Tenn. Code Ann. § 37-1-134, any juvenile 16 years of age or older that is convicted of a felony is to be housed in a juvenile correctional facility unless the court orders admission into an adult facility. It is assumed for purposes of this fiscal note that all juveniles will be housed in a juvenile correctional facility until they are 18 years old, as they currently would be as a delinquent.
- The bill will only increase state incarceration expenditures for juveniles who serve more than four years, because the first four years will be served in a juvenile correctional facility rather than a state prison.
- The bill will increase state incarceration expenditures for any juvenile convicted of a Class A or B felony, because those felonies serve an average time greater than four years.
- Of the 30 juveniles affected by the bill, it is assumed that three each year will be convicted of a B felony, and two will be convicted of an A felony.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- Recidivism discounts of 42.92 and 49.1 percent would apply, but these juveniles are not current inmates of majority age to which the recidivism discount applies. No recidivism discounts apply to this bill.
- According to the DOC, the average operating cost per offender per day for calendar year 2015 is \$66.03.

- The average time served for a B felony is 5.69 years. The bill will result in each juvenile convicted of a B felony to serve 1.69 years (5.69 years – 4 years in juvenile correctional facility) in DOC custody.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on three offenders serving 1.69 years (617.27 days) for a total of \$40,758.34 (\$66.03 x 617.27 days). The cost for three offenders is \$122,275.02 (\$40,758.34 x 3).
- The average time served for an A felony is 15.14 years. The bill will result in each juvenile convicted of an A felony to serve 11.14 years (15.14 years – 4 years in juvenile correctional facility) in DOC custody.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on two offenders serving 11.14 years (4,068.89 days) for a total of \$268,668.81 (\$66.03 x 4,068.89 days). The cost for two offenders is \$537,337.62 (\$268,668.81 x 2).
- The total increase in incarceration costs is \$659,612.67 (\$122,275.02 + \$537,337.62).
- The bill increases the courts', district attorneys', and public defenders' caseloads, but only by 30 cases, approximately one per judicial district. It is assumed that the courts, district attorneys, and public defenders can accommodate one additional felony case per judicial district within their existing resources.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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